

C lm

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X

VIRGINIA HOERNER.,

MEMORANDUM AND ORDER

Plaintiff,

CV 06-4126

-against-

(Wexler, J.)

WALDBAUMS, INC.,

Defendant.

-----X

Scott Lockwood, Esq.
1600 Deer Park Avenue
Deer Park, NY 11729
Attorney for Plaintiff

WEXLER, District Judge:

Rule 4(m) of the Federal Rules of Civil Procedure requires Plaintiff to effect service of a summons and complaint within 120 days of filing of those documents. In or about July 3, 2007, the assigned Magistrate Judge, Michael L. Orenstein gave Plaintiff notice that more than 120 days had passed since the filing of the summons and complaint herein and was advised that failure to serve the documents or request an extension of time in which to effect service would result in a report and recommendation to this court recommending that this action be dismissed without prejudice. Plaintiff failed to respond in any way to the instruction of the Magistrate Judge. Accordingly, Magistrate Judge Orenstein issued a Report and Recommendation ("R&R") dated August 7, 2007, recommending that this matter be dismissed.

The time to file objections to the R&R having passed without receipt of such objections, the Report and Recommendation is hereby adopted. The complaint is dismissed without

prejudice. The Clerk of the Court is directed to close the file in this case.

SO ORDERED

[Handwritten signature of Leonard D. Wexler]
LEONARD D. WEXLER
UNITED STATES DISTRICT JUDGE

Dated: Central Islip, New York
September 25, 2007